

ORIGINAL

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Canadian National (formerly Wisconsin Central Ltd.), the Village of Mundelein, the County of Lake, and the State of Illinois, Department of Transportation.

RECEIVED  
OCT 3 2003

Illinois Commerce Commission  
RAIL SAFETY SECTION

Stipulated Agreement regarding the installation of an Automated Horn System (AHS system) at the crossings for the Company's track with public highways known as Butterfield Road, Illinois Rte. 60 (IL 60), Allanson Road, Hawley Street, Park Street, Maple Street (IL Rte. 176), Dunbar Road, Winchester Road, and Peterson Road, located in/near the Village of Mundelein, Lake County, Illinois designated as crossings AAR/DOT 689 698N, milepost 37.37M; AAR/DOT 689 699V, milepost 37.50M; AAR/DOT 689 701U, milepost 38.65M; AAR/DOT 689 703H, milepost 39.80M; AAR/DOT 689 704P, milepost 39.94M; AAR/DOT 689 705W, milepost 40.10M; AAR/DOT 689 707K, milepost 40.85M; AAR/DOT 689 709Y, milepost 41.78M; and AAR/DOT 689 710G, milepost 42.38M, respectively.

T01-0029

**SUPPLEMENTAL PETITION FOR AN ORDER APPROVING THE AUTOMATED HORN SYSTEM AT THE NINE CROSSINGS IN/NEAR MUNDELEIN, ILLINOIS AS A RAILROAD SAFETY DEVICE AND DIRECTING THAT THEY REMAIN IN PLACE PERMANENTLY SUBJECT TO ACTION BY THE FEDERAL RAILROAD ASSOCIATION**

Now comes Petitioner, the Village of Mundelein (the "Village"), and petitions the Illinois Commerce Commission (the "COMMISSION") for an order approving the automated horn system at the nine crossings in/near Mundelein, Illinois as a railroad crossing safety device and directing that they remain in place permanently subject to action by the Federal Railroad Association. In support of its Petition, the VILLAGE states as follows:

1. Canadian National (formerly Wisconsin Central Ltd.) is a rail carrier operating in Illinois and is a rail carrier within the meaning of the Illinois Commercial Transportation Law.
2. The Illinois Department of Transportation is an agency of the State of Illinois and

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is subject to the jurisdiction of the COMMISSION.

3. Lake County is a political subdivision within the State of Illinois and is subject to the jurisdiction of the COMMISSION.

4. The Village of Mundelein is a political subdivision within the State of Illinois and is subject to the jurisdiction of the COMMISSION.

5. The Canadian National owns and operates a main line of railroad through Cook County continuing into Lake County and to the Wisconsin border. This main line passes through the municipalities made party respondents to this action.

6. On April 25, 2001, the COMMISSION issued an order in this docket (the "ORDER") directing that the Wisconsin Central Ltd. (now the Canadian National) install automated horns (to provide warning to motorists of approaching trains) at nine at-grade rail-highway crossings in and around the Village of Mundelein. The ORDER is incorporated herein by reference.

7. The ORDER incorporated a Stipulated Agreement among the parties hereto and the COMMISSION. The Stipulated Agreement contained the following special provisions:

(a) The AHS system and appurtenances are considered an experimental installation.

(b) A study is to be performed on the effectiveness of the system, and whether the AHS system can replace the need for train crews to sound train horn warnings when approaching public highway/rail grade crossings, by the Northwestern University Center for Public Safety (the "STUDY").

(c) The pilot program shall continue for a minimum of eighteen (18) months from the date of COMMISSION's ORDER.

8. On September 12, 2002, the Village of Mundelein filed a Supplemental Petition for an order from the COMMISSION approving an extension for the 18 month study period for the automated horns project.

9. On October 25, 2002, the COMMISSION issued the Third Supplemental Interim Order in this matter which extended the time to and including April 25, 2003 to complete the STUDY.

10. In accordance with the ORDER OF April 25, 2001, the Village of Mundelein has complied with all requirements set forth by the COMMISSION. Specifically, monthly reports on the operation of the automated horn systems have been submitted; quarterly meetings of the parties have been held to discuss operations; and an evaluation of the effectiveness of the AHS system (the STUDY) has been undertaken.

11. Upon completion of the STUDY, the final report was distributed in January 2003 to the Illinois Commerce Commission, the Federal Railroad Administration, the Volpe National Transportation Systems Center, the Illinois Department of Transportation, the Lake County Department of Transportation, and the Villages of Vernon Hills and Libertyville.

12. The conclusion of the STUDY as stated in its executive summary was "that the wayside horn significantly reduces highway-rail crossing violations". And, that "it accomplishes this task while improving the quality-of-life for nearby residents."

13. Based on the STUDY, the monthly reports submitted by the VILLAGE, and the quarterly meetings held by the parties, the Village of Mundelein believes that the AHS system

has been proven to be an effective and reliable alternative to the need for train crews to sound train horn warnings when approaching public highway/rail grade crossings.

14. Wisconsin Central Ltd. (Now Canadian National) entered into a license agreement with the VILLAGE, dated April 3, 2001, in which Wisconsin Central Ltd. (now Canadian National) granted the VILLAGE a license to maintain the automated horn system at the nine crossings. The license agreement remains in effect for so long as the VILLAGE has maintenance responsibility for the automated horn system at the nine crossings and there continues to be a need for such maintenance. A copy of said license agreement is attached hereto and made a part hereof as Exhibit A. The VILLAGE has complied with all of its obligations under said license agreement and it remains in full force and effect.

15. The VILLAGE entered into an agreement with Railroad Controls Limited dated April 17, 2001, under which the VILLAGE retained Railroad Controls Limited to provide monthly maintenance services on the automated horn systems at the nine crossings. Said agreement had a one-year term but has been extended on a month to month basis by agreement of the parties. A copy of said agreement is attached hereto and made a part hereof as Exhibit B. The VILLAGE has complied with all its obligations under said agreement which has now been replaced by a new three-year agreement, dated September 22, 2003, as is more fully set forth in paragraph 18 hereof.

16. On March 20, 2003, the VILLAGE filed its supplemental petition with the COMMISSION requesting a six (6) month extension of time to allow the VILLAGE to explore the options available for long-term maintenance of the automated horn system.

17. On April 23, 2003, the Commission entered a Fifth Supplemental Interim Order

granting the VILLAGE an extension for six (6) months to and including October 25, 2003 within which to find and hire a long-term maintainer for the automated horn system at the nine crossings. Said Fifth Supplemental Interim Order provided that the COMMISSION's Rail Safety Section Staff has the authority to approve the long-term maintainer hired by the VILLAGE and the long-term maintainer must be trained in railroad signal maintenance.

18. The VILLAGE has complied with the Commission's Fifth Supplemental Interim Order entered on April 23, 2003 and has entered into a new three-year agreement with Railroad Controls Limited, dated September 22, 2003, in which the Village has retained Railroad Controls Limited to continue providing monthly maintenance services on the automated horn system at the nine crossings.

A copy of the above agreement is attached hereto and made a part hereof as Exhibit C.

19. Railroad Controls Limited is trained in railroad safety maintenance and has been maintaining the automated horn system at the nine crossings since their installation.

20. The VILLAGE has submitted a true and correct copy of the Agreement with Railroad Controls Limited, dated September 22, 2003, to the Commission's Rail Safety Section Staff for its approval.

A copy of the letter of transmittal is attached hereto and made a part hereof as Exhibit D.

WHEREFORE, Petitioner Village of Mundelein, respectfully requests the Commission:

- (1) To enter an order approving the automated horn system at the nine crossings in/near Mundelein, Illinois as a railroad safety device and direct

that they remain in place permanently subject to action by the Federal  
Railroad Association.

- (b) Provide such other and further relief as the COMMISSION deems just and  
appropriate.

Dated at Mundelein, Illinois this

29<sup>th</sup> day of September, 2003

Respectfully submitted

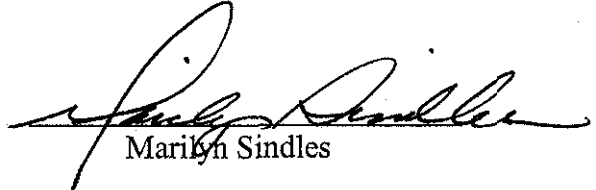
VILLAGE OF MUNDELEIN

By: Michael A. Flynn

Michael A. Flynn  
Assistant Village  
Administrator  
Village of Mundelein  
440 East Hawley St.  
Mundelein, Illinois 60060  
(847) 949-3223

**VERIFICATION**

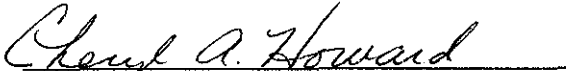
MARILYN SINDLES, being first duly sworn under oath, deposes and states that she is President of the Village of Mundelein, and that she has read the foregoing Petition of the Village of Mundelein, and that the contents thereof are true and correct to the best of her knowledge and belief.

  
Marilyn Sindles

SUBSCRIBED and SWORN to  
before me this 29<sup>th</sup> day of

September, 2003



  
Notary Public

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Canadian National (formerly Wisconsin Central Ltd.), the Village of Mundelein, :  
the County of Lake, and the State of Illinois, Department of Transportation. :  
:  
Stipulated Agreement regarding the installation of an Automated Horn System :  
(AHS System) at the crossings of the Company's track with public highways :  
known as Butterfield Road, Illinois Rte. 60 (IL 60), Allanson Road, Hawley : T01-0029  
Street, Park Street, Maple Street (IL Rte. 176), Dunbar Road, Winchester Road, :  
and Peterson Road, located in/near the Village of Mundelein, Lake County, :  
Illinois, designated as crossings AAR/DOT 689 698N milepost 37.37M; :  
AAR/DOT 689 699V; milepost 37.50M; AAR/DOT 689 701U, milepost 38.65M; :  
AAR/DOT 689 703H, milepost 39.80; AAR/DOT 689 704P, milepost 39.94M; :  
AAR/DOT 689 705W, milepost 40.10M; AAR/DOT 689 707K, milepost :  
40.85M; AAR/DOT 689 709Y, milepost 41.78; AAR/DOT 689 710G, milepost :  
42.38M, respectively. :

**NOTICE OF FILING**

Mr. Edward R. Gower  
Chief Counsel  
Illinois Department of Transportation  
2300 S. Dirksen Pkwy., Room 300  
Springfield, IL 62764

Mr. Ken Marabella  
Village Administrator  
Village of Mundelein  
440 E. Hawley Street  
Mundelein, IL 60060

Mr. Robert Berry  
Railroad Safety Specialist  
Illinois Commerce Commission  
527 E. Capital Avenue  
Springfield, IL 62701

Mr. Dusty Powell  
Division of Transportation  
Lake County  
600 W. Winchester Road  
Libertyville, IL 60048/1381

Mr. Kevin Bowens  
Village Administrator  
Village of Libertyville  
118 W. Cook Avenue  
Libertyville, IL 60048

Mr. Michael S. Allison  
Village Manager  
Village of Vernon Hills  
290 Evergreen Drive  
Vernon Hills, IL 60061

Michael J. Barron, Jr.  
Canadian National  
455 N. Cityfront Plaza Drive  
Chicago, IL 60611-5317



PLEASE TAKE NOTICE that we have on this 29<sup>th</sup> day of September, 2003 mailed for filing with the Illinois Commerce Commission in the above captioned matter, the Village of Mundelein's Supplemental Petition for an Order Approving the Automated Horn System at the Nine Crossings in/near Mundelein, Illinois as a Railroad Crossing Safety Device and Directing that They Remain in Place Permanently Subject to Action by the Federal Railroad Association, a copy of which is hereby served upon you..

VILLAGE OF MUNDELEIN

By: Michael A. Flynn  
Michael A. Flynn  
Assistant Village Administrator  
Village of Mundelein  
440 East Hawley St.  
Mundelein, IL 60060  
(847) 949-3223

**PROOF OF SERVICE**

MICHAEL A. FLYNN, being first duly sworn, under oath, deposes and states that on behalf of Petitioner, he served the foregoing Supplemental Petition upon the respondents made party to this proceeding by enclosing copies of the Petition in envelopes addressed to those parties as set forth below, postage prepaid, and depositing the envelopes in the United States Mail at 435 East Hawley Street, Mundelein, Illinois on the 29<sup>th</sup> day of September, 2003.

  
Michael A. Flynn

SUBSCRIBED and SWORN to  
before me this 29<sup>th</sup> day of  
September, 2003



  
Notary Public

Mr. Edward R. Gower  
Chief Counsel  
Illinois Department of Transportation  
2300 S. Dirksen Pkwy., Room 300  
Springfield, IL 62764

Mr. Ken Marabella  
Village Administrator  
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Canadian National  
455 N. Cityfront Plaza Drive  
Chicago, IL 60611-5317

[S:\ENG.RE\RE27] (Revised 2/14/96)

License 5322-W

**LICENSE**

Subject to the terms and conditions hereinafter set forth, permission is hereby granted to Village of Mundelein, 440 East Hawley Street, Mundelein, Illinois, (hereinafter "LICENSEE") to enter upon the premises of WISCONSIN CENTRAL LTD. ("RAILROAD") located at

the right-of-way of RAILROAD at Mundelein, Lake County, Illinois (the "Premises");

for the purpose of maintaining an automated horn crossing warning system at Butterfield Road, Illinois Route 60, Allanson Road, Hawley Street, Park Street, Maple Street, Dunbar Road, Winchester Road and Peterson Road in/near the Village of Mundelein in accordance with attached plans (the "FACILITY") and for no other purpose whatsoever.

The permission hereby granted is subject to:

1. Existing leases, easements, licenses and permits heretofore granted by the RAILROAD or its predecessors in interest affecting the Premises.
2. Cancellation effective immediately upon LICENSEE's termination of maintenance responsibility for the FACILITY or upon their no longer being a need for maintenance of the FACILITY. Upon termination of this LICENSE, and if permitted by law or regulatory order, LICENSEE shall remove the FACILITY and restore the property of RAILROAD to a condition satisfactory to the RAILROAD, all at LICENSEE's costs.
3. All work or any operation shall be done in a good and workmanlike manner so as not to interfere with the tracks, operation of trains, communications and other facilities of the RAILROAD or railroad companies permitted by RAILROAD to use the right-of-way tracks or facilities of the RAILROAD (the "Other Users").
4. In the event the RAILROAD's Chief Engineer or his authorized representative determines that it will be necessary to furnish a flagger during the performance of the work hereinabove described, the LICENSEE agrees to reimburse the RAILROAD, as the case may be, for the expense of flagging incurred by the RAILROAD to conduct said work in accordance with the requirements of the Chief Engineer or his authorized representative of the RAILROAD.

5. No excavation closer than 25 feet to the track, and no vehicles to be closer than 25 feet to the track.
6. Existing slope of railroad bed should not be disturbed. All holes or depressions made in the Premises shall be filled and leveled by LICENSEE in a manner satisfactory to the RAILROAD's Chief Engineer or his authorized representative.
7. If it is necessary to remove any right-of-way fences to facilitate the performance of the work permitted hereunder, such fences shall be removed and restored by, and at the expense of, the LICENSEE. Any brush knocked down should be removed from railroad property.

Payments by the Licensee:

The RAILROAD shall not be responsible for any costs or expenses arising out of, or in any way related to, performance of the work. All such costs and expenses, including but not limited to, permit and license fees shall be paid by the LICENSEE.

Indemnification by Licensee:

1. To the extent permitted by law, LICENSEE agrees to RELEASE, INDEMNIFY, HOLD HARMLESS AND FOREVER DISCHARGE RAILROAD, its parent and affiliate companies, and each of their insurers, employees, officers, directors, agents, successors and any other railroad using the lines of RAILROAD (the "Released Parties") of and from any claims, liabilities, causes of action, damages or suits, including costs and attorney's fees, resulting from or in any way related to any injury to any of the LICENSEE's employees, agents, contractors or invitees (including any resulting death), or any loss or damage to the property of, or property under the control of, LICENSEE, its employees, agents, contractors or invitees, arising due to any physical condition, whether patent or latent, of RAILROAD's real or personal property. Indemnity obligations arising during the term of this License will survive the termination of the License.

For purposes of this indemnity, RAILROAD has NO DUTY to do any of the following:

- A. to warn or otherwise take reasonable steps to protect entrants from conditions on the premises that are known to entrants, are open and obvious, or can reasonably be expected to be discovered by the entrants;
- B. to warn of latent defects or dangers, or defects or dangers unknown to RAILROAD;
- C. to warn of any dangers resulting from misuse by entrants of the Premises or anything affixed to or located on the Premises;

- D. to protect entrants from their own misuse of the Premises or of anything affixed to or located on the Premises;
  - E. to inspect or police the Premises.
2. LICENSEE shall comply with all applicable ordinances, rules, regulations, requirements, and laws of any governmental authority having jurisdiction of environmental standards and conditions. If, in the conduct of LICENSEE's operations, LICENSEE shall violate any such ordinance, rule, regulation, requirement, or law, LICENSEE agrees to, and shall, protect, save harmless, defend, and indemnify to the extent permitted by law, the RAILROAD from and against any and all penalties, fines, costs, and expense (including reasonable attorney's fees and costs of defense) imposed upon or incurred by RAILROAD caused by, arising out of, resulting from, or in any way connected with such violation or violations. The liability of LICENSEE hereunder shall survive termination of this Agreement.
3. The LICENSEE assumes full responsibility for (a) determining the location and existence of any pipes, wires, conduits, sewers, piling, structures, or other obstructions to the work performed hereunder; and (b) all liability for loss or damage arising out of LICENSEE's failure to do so.

#### No Liens

The LICENSEE shall fully protect the Premises and the RAILROAD from and against all mechanic's and materialmen's liens accruing by reason of the work performed hereunder.

#### Insurance by LICENSEE

##### 1. Railroad Protective Insurance-During Work

If LICENSEE shall use its own forces or shall employ a contractor for the maintenance of the FACILITY, then, before commencing, LICENSEE or their contractor, as the case may be, shall provide and maintain the following insurance, in form and amount and with companies satisfactory to, and as approved by, RAILROAD:

- A. **Railroad Protective Insurance, with limits of not less than \$7,000,000 per occurrence for Bodily Injury Liability, Property Damage Liability and Physical Damage to Property, with \$8,000,000 aggregate for the term of the policy with respect to Bodily Injury Liability, Property Damage Liability and Physical Damage to Property. The policy must name**

**WISCONSIN CENTRAL LTD.  
Attn: Mark Gibson  
P. O. Box 5062  
Rosemont, IL 60017-5062  
Reference Document No. 5322-W**

as the Named Insured, and shall provide for not less than ten (10) days prior written notice to RAILROAD of cancellation of, or any material change in, the policy.

2. General:

Before commencing work hereunder, and until this License shall be terminated, the LICENSEE shall provide and maintain the following insurance, in form and amount with companies satisfactory and as approved by the RAILROAD, and shall furnish the RAILROAD with a Certificate of Insurance evidencing such coverage:

- A. Statutory Workers' Compensation and Employer's Liability Insurance.
- B. Automobile Liability in an amount not less than \$1,000,000 combined single limit.
- C. Comprehensive General Liability in an amount not less than \$7,000,000 combined single limit with an aggregate of \$8,000,000. The policy must name

Wisconsin Central Ltd.  
Attn: M. E. Gibson, Mgr. Real Estate  
P.O. Box 5062  
Rosemont, IL 60017-5062  
Reference Document No. 5322-W

as an additional insured and must not contain any exclusions related to doing business on, near or adjacent to railroad facilities.

- D. Errors and omissions insurance in an amount not less than \$1,000,000.

Upon request, the LICENSEE shall deliver a certified, true and complete copy of the policy or policies. The policies shall provide for not less than ten (10) days' prior written notice to the RAILROAD of cancellation of, or any material change in, the policies.

Notwithstanding anything to the contrary herein, the parties agree that the LICENSEE's obligation to indemnify hereunder, if any, shall be limited to and not exceed the insured amount required by this Agreement.

RAILROAD reserves the right, upon request from LICENSEE, to amend these insurance requirements as appropriate provided RAILROAD's liability concerns are met. RAILROAD will memorialize such amendments in writing.

Notice to Railroad of Commencement of Work

The LICENSEE, or the LICENSEE's contractor, as the case may be, shall not commence any work without first giving not less than three (3) business days' prior notice to the

RAILROAD's Chief Engineer or his authorized representative at the RAILROAD's office located at Stevens Point, Wisconsin, Phone (715) 345-2511.

Survey Borings, etc.

The location and log of any borings made on the RAILROAD's property shall be kept by the LICENSEE and copies of such log and any survey made on the RAILROAD's property shall be furnished to the RAILROAD.

No Assignment

This License is personal to LICENSEE and may not be assigned except upon the written consent of RAILROAD. Any assignment without RAILROAD's consent is null and void and immediately terminates this License.

Breach

If LICENSEE breaches any part of this License, then, upon 5 days' notice, this License shall terminate and be of no future force and effect. Notice is deemed given when sent by regular 1<sup>st</sup> class mail to LICENSEE at the address shown on page 1.

The above terms and conditions are hereby accepted and agreed to.

WISCONSIN CENTRAL LTD.

By

Title

R. Blanke  
V.P. - Engr.

Dated:

4-3 20 01

By

Title

Mayor

Dated:

March 6 20 01

ATTACHED PLANS

A-1 TO A-9

EXHIBIT A-1 HAS TWO CROSSINGS ON IT, SO THERE IS NO A-2



**VILLAGE OF MUNDELEIN, IL**  
**AHS LOCATIONS**  
**EXHIBIT "A"**

<u>Location</u>	<u>DOT No.</u>	<u>Milepost</u>
Butterfield Road	689698N	CM 37.37
IL Rte 60	689699V	CM 37.50
Allanson Road	689701U	CM 38.65
Hawley Street	689703H	CM 39.80
Park Street	689704P	CM 39.94
IL Rte 176	689705W	CM 40.10
Dunbar Road	689707K	CM 40.85
Winchester Road	689709Y	CM 41.78
Peterson Road	689710G	CM 42.38

**VILLAGE OF MUNDELEIN, IL  
AHS MAINTENANCE AGREEMENT  
EXHIBIT "B"**

Railroad Controls Limited agrees to perform monthly inspections at nine (9) AHS locations in the Village of Mundelein, IL for the following fees:

Cost per month: \$ 630.00 plus flagging costs

1. Check for proper operation of AHS equipment once per month.
2. Perform preventive maintenance as per manufacturer's recommendations.
3. Respond to trouble calls within 48 hours of notification from the Village of Mundelein.

**Additional Services and Fees if requested by the Village:**

Advisory and consulting services to be performed at a fixed rate of \$95.00 per hour plus expenses.

Supervisory services to be performed at a fixed rate of \$70.00 per hour plus expenses.

Signal circuit plan drafting charges to be performed at a fixed rate of \$50.00 per hour plus supplies.

Services other than periodic monthly, quarterly, and annual maintenance inspections performed at a fixed rate of \$65.00 per hour plus expenses, including equipment rental, flagging, etc.

**VILLAGE OF MUNDELEIN, ILLINOIS**  
**AHS MAINTENANCE AGREEMENT**

This AHS Maintenance Agreement (hereinafter referred to as "Agreement") is made as of this 17th day of April 2001 between the Village of Mundelein, Illinois (hereafter referred to as the Village) organized in the State of Illinois, having its principal office at 440 East Hawley Street, Mundelein, IL 60060, and Railroad Controls Limited, L.L.C., (hereinafter referred to as "RCL"), a Limited Liability Company, organized under the laws of the State of Tennessee, having its principal address at 500 South Freeway, Fort Worth, Texas, 76104.

**WHEREAS**, the Village has maintenance responsibility for nine (9) AHS locations within the State of Illinois; and

**WHEREAS**, the Village desires to obtain maintenance services; and

**WHEREAS**, RCL desires to render maintenance services to the Village for nine (9) AHS locations in accordance with the terms and provisions set forth in this Agreement,

**NOW, THEREFORE**, for and in consideration of the mutual covenants and agreements set forth in this Agreement, the parties hereto do hereby mutually agree as follows:

1. **SCOPE OF SERVICES:** RCL will provide the following services to the Village during the term of this Agreement.
  - A. **Maintenance and Inspection Services.** RCL shall provide a signal maintainer for maintenance and inspection of the Village's nine (9) AHS locations, as described in **Exhibit A**, in accordance with manufacturer's recommendations.
  - B. **Emergency Services.** RCL's signal maintainer shall be available for emergency repair of the AHS within 48 hours of initial notification, during the term of this Agreement. Further, RCL shall provide a communications system consisting of a pager and cellular telephone for each maintainer to facilitate the emergency notification by the Village

- C. Damaged AHS Equipment.** RCL, at the Village's request, shall repair and/or replace AHS equipment damaged and/or destroyed by a third party. The Village shall bear the cost of such replacement regardless of availability of reimbursement of its costs from the party or parties responsible for the damage or destruction.
  - D. Materials and Supplies.** RCL shall furnish all AHS materials and supplies consumed by RCL in providing the maintenance services described in this Agreement. These materials and supplies shall become the property of the Village after being stored or installed by RCL and payment is made to RCL. Cost of providing these materials and supplies shall be born by the Village. Applicable duties, taxes, and freight charges will be passed on to the Village at RCL's cost. Charges for materials and supplies shall be added to the Village's monthly invoice for maintenance and shall be identified by part name and, if applicable, by the location requiring the specific material or supply. In all cases, RCL will utilize parts and material from the Village's inventory prior to purchasing new parts and material.
  - E. Consulting Services.** RCL, at the request of the Village, shall render advisory and consulting services to the Village with respect to the operation or improvement of the AHS equipment.
- 2. STORAGE SPACE.** The Village shall bear the cost of providing space for the storage of all materials used by RCL in performing the maintenance services described in this Agreement.
  - 3. INSURANCE.** RCL shall, during the term of this Agreement, maintain the following insurance:

    - A.** Worker's Compensation Insurance;
    - B.** Automobile Insurance with a face amount of One Million and no/100 Dollars (\$1,000,000.00), and
    - C.** Comprehensive general liability in an amount not less than \$7,000,000 combined single limit with an aggregate of \$8,000,000.
    - D.** RCL shall furnish proof of such insurance to the Village upon execution of this Agreement.
  - 4. FEES.** In consideration for the services to be rendered by RCL under the terms of the Agreement, except as provided herein, the Village shall make

payment to RCL as follows:

- A. A monthly billing shall be provided to the Village on or about the 1st day of each month and shall be payable by the Village to RCL on or before the last day of that month; and
  - B. Monthly charges shall be based on RCL's written quotation for AHS maintenance service as evidenced in **Exhibit B** along with any additional actual expenses incurred such as Railroad flagging.
5. **TERM.** This Agreement shall remain in full force and effect for a period of one (1) year from the effective date hereof.
6. **EFFECTIVE DATE.** This Agreement shall be effective upon the completion of the installation of the Automated Horn systems at all nine locations indicated in **Exhibit A** and on the date they are activated and placed in operation.
7. **TERMINATION.** This Agreement may be terminated by either RCL or the Village with ten (10) days written notice in the event of either RCL's or the Village's bankruptcy, insolvency or assignment of the Agreement for the benefit of creditors or thirty (30) days written notice in the event of either RCL or the Village's default of the terms of this Agreement. Charges incurred for the terminated month shall be prorated according to actual time served. Within thirty (30) days following the termination of this agreement, RCL shall submit a final invoice to the Village detailing all outstanding charges due to RCL.
8. **CONFIDENTIALITY.** Neither party shall, during the term of this Agreement, disclose any confidential information; the disclosure of which would be detrimental to the other party.
9. **BINDING EFFECT.** The Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors, assigns and personal representatives.
10. **SEVERABILITY.** If any provision of this Agreement is determined by a competent legal authority to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.
11. **GOVERNING LAW.** The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.
12. **RAILROAD LICENSE.** RCL, as the Village's contractor, agrees to abide by the terms and requirements of the LICENSEE in the Railroad License

Agreement attached as **Exhibit C**. The Village shall bear all railroad charges associated with the work covered by this agreement. RCL agrees to abide by and undertake all indemnification and insurance obligations imposed upon the Village in said Railroad License Agreement.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the day and year set forth above.

Witness:

*Samela J. Keeney*  
By: *Village Clerk*

Village of Mundelein, Illinois

*Marilyn Sindles*  
By: Marilyn Sindles, Mayor

Village of Mundelein, IL

Witness:

*Kurt Anderson*  
By: Kurt Anderson  
Director - AHS Division

Railroad Controls Limited

*Richard Campbell*  
By: Richard Campbell, President

**VILLAGE OF MUNDELEIN, IL**  
**AHS LOCATIONS**  
**EXHIBIT "A"**

<u>Location</u>	<u>DOT No.</u>	<u>Milepost</u>
Butterfield Road	689698N	CM 37.37
IL Rte 60	689699V	CM 37.50
Allanson Road	689701U	CM 38.65
Hawley Street	689703H	CM 39.80
Park Street	689704P	CM 39.94
IL Rte 176	689705W	CM 40.10
Dunbar Road	689707K	CM 40.85
Winchester Road	689709Y	CM 41.78
Peterson Road	689710G	CM 42.38

**VILLAGE OF MUNDELEIN, IL  
AHS MAINTENANCE AGREEMENT  
EXHIBIT "B"**

Railroad Controls Limited agrees to perform monthly inspections at nine (9) AHS locations in the Village of Mundelein, IL for the following fees:

Cost per month: \$ 630.00 plus flagging costs

1. Check for proper operation of AHS equipment once per month.
2. Perform preventive maintenance as per manufacturer's recommendations.
3. Respond to trouble calls within 48 hours of notification from the Village of Mundelein.

Additional Services and Fees if requested by the Village:

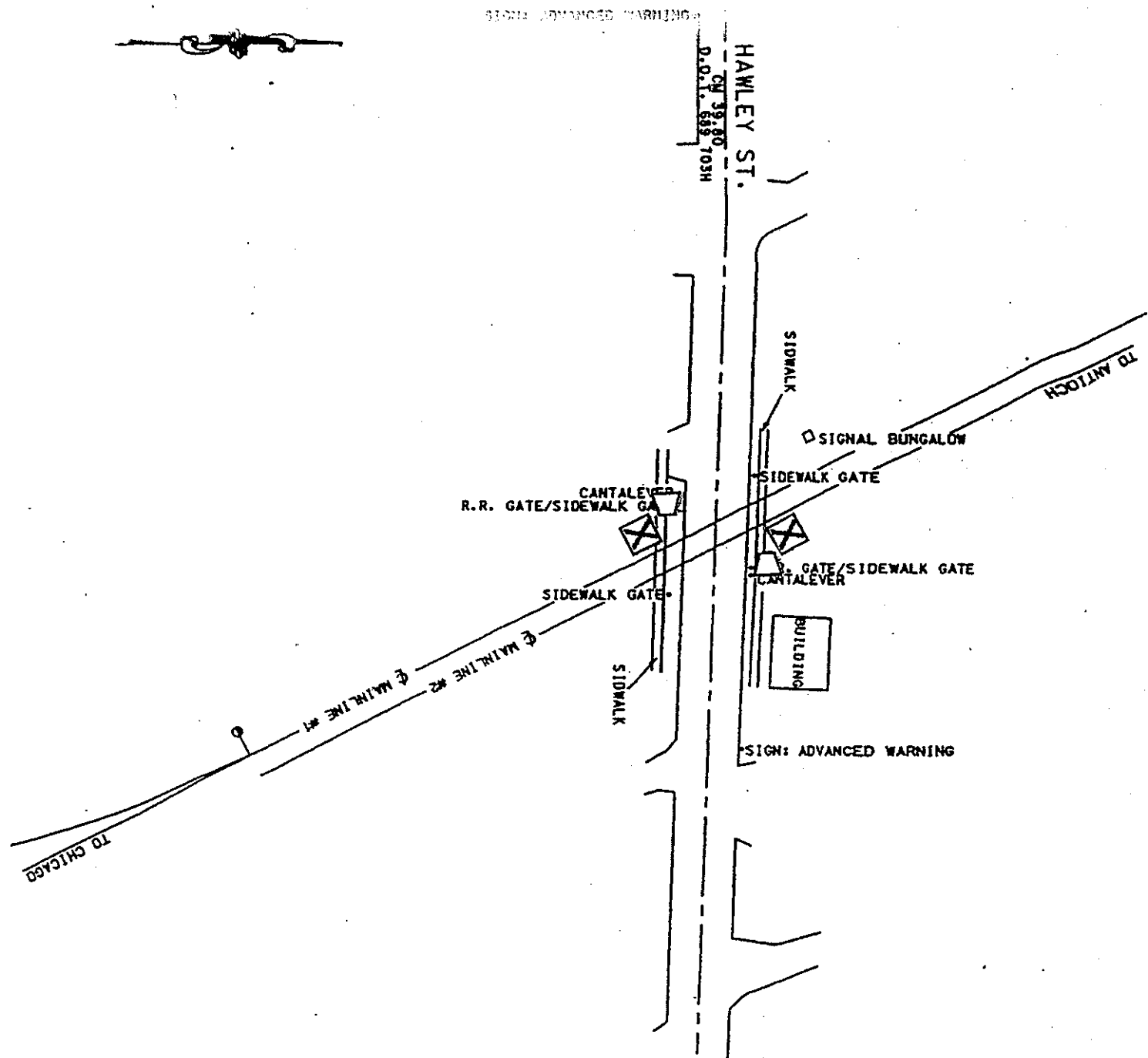
Advisory and consulting services to be performed at a fixed rate of \$95.00 per hour plus expenses.


Supervisory services to be performed at a fixed rate of \$70.00 per hour plus expenses.

Signal circuit plan drafting charges to be performed at a fixed rate of \$50.00 per hour plus supplies.

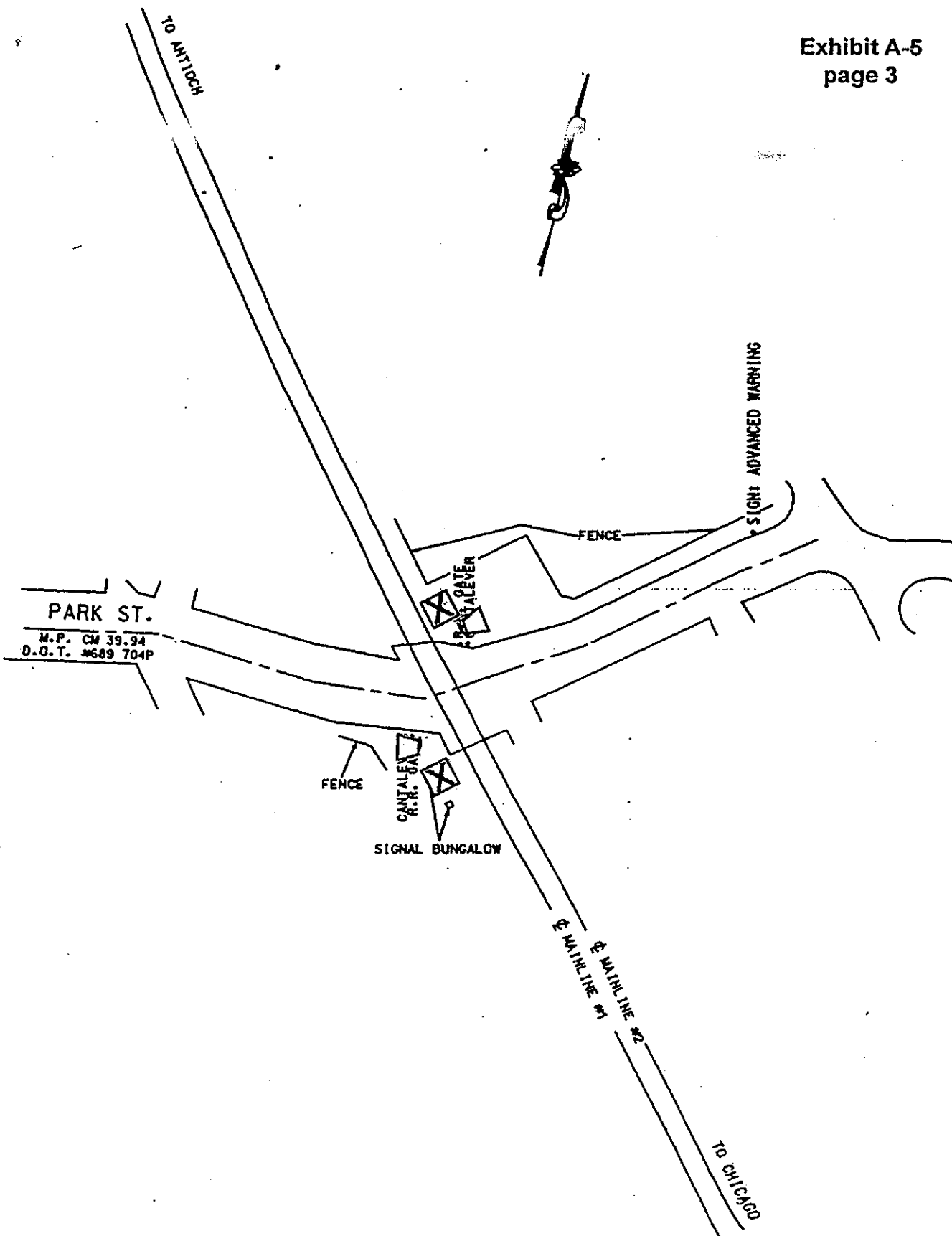
Services other than periodic monthly, quarterly, and annual maintenance inspections performed at a fixed rate of \$65.00 per hour plus expenses, including equipment rental, flagging, etc.






ECT: PROPOSED CROSSING FOR DIRECTIONAL HORNS	 <b>ENGINEERING DEPARTMENT</b> 1625 DEPOT STREET STEVENS POINT, WI 54481 PHONE: (715) 345-2500 FAX: (715) 345-2507	REVISED BY:    DATE:	<input type="checkbox"/> PRELIMINARY PLAN - SURVEY REQUIRED <input type="checkbox"/> PRELIMINARY PLAN - SURVEY COMPLETED <input checked="" type="checkbox"/> FINAL PLAN
TION: (Direction, Line Segment, Mile Post) MUNDELEIN, IL. (HAWLEY ST.)		WORK ORDER: 75-061-19 DRAWN BY: JHK	SCALE: 1" = 100' DATE: 10/26/99
FILE LOCATION: H:\MUNDELEIN 3-PROJ\HAWLEY.DWG			

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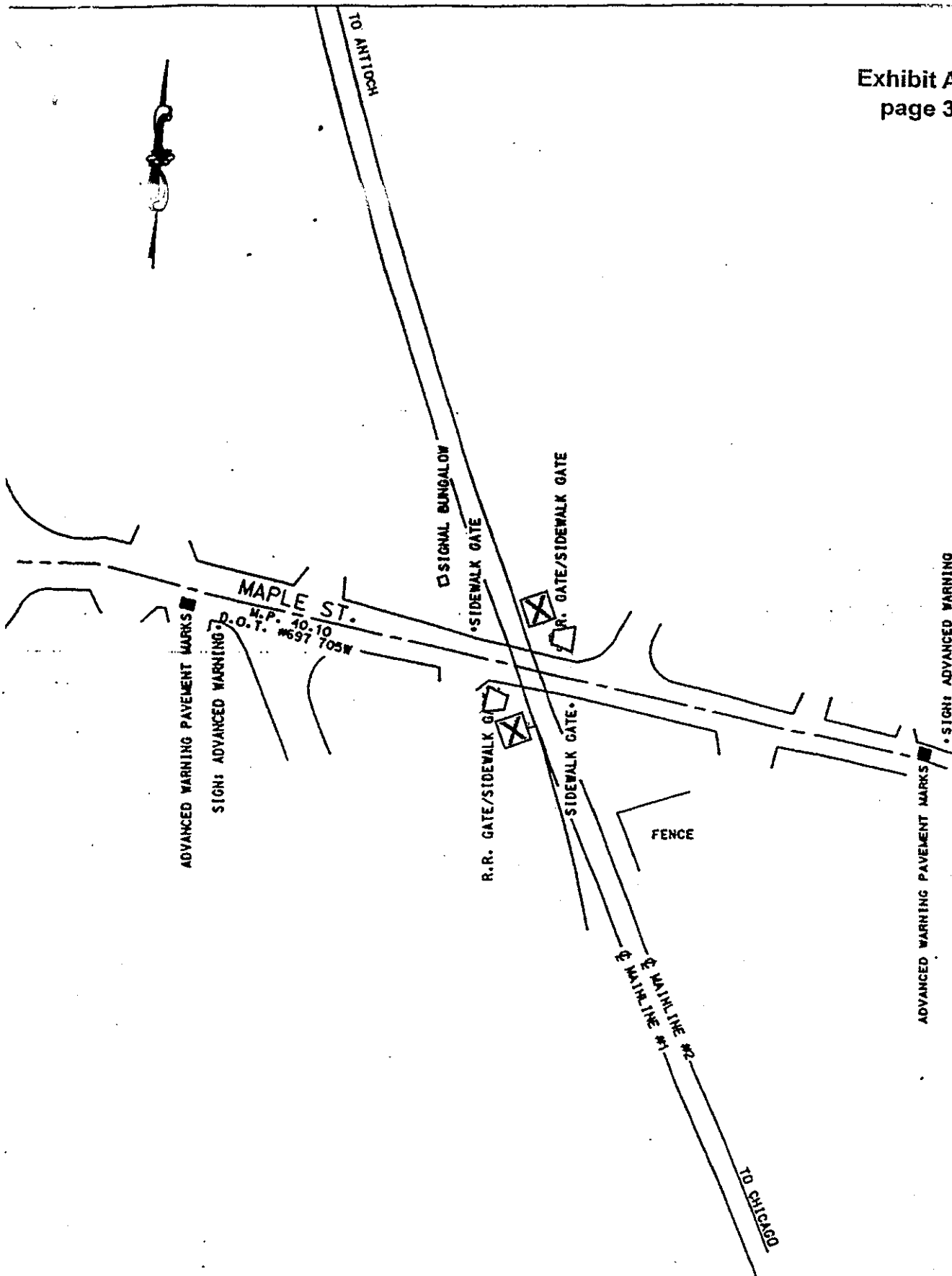


PROJECT:  
PROPOSED CROSSING FOR DIRECTIONAL HORNS

STATIONS (Station - Line Segment - Mile Post)  
MUNDELEIN, IL. (PARK ST.)

 **ENGINEERING DEPARTMENT**  
1625 DEPOT STREET  
STEVENS POINT, WI 54481  
PHONE: (715) 345-2500  
FAX: (715) 345-2507

REVISED BY:	DATE:	<input type="checkbox"/> PRELIMINARY PLAN - SURVEY REQUIRED
		<input type="checkbox"/> PRELIMINARY PLAN - SURVEY COMPLETED
		<input checked="" type="checkbox"/> FINAL PLAN
WORK ORDER: 75-080-19	SCALE: 1" = 100'	
DRAWN BY: JHK	DATE: 10/26/99	
FILE LOCATION: F:\MUNDELEIN\3-IND\PLAN.DWG		



CT:  
PROPOSED CROSSING FOR DIRECTIONAL HORNS

ION: (Station, Line Segment, Mile Post)  
MUNDELEIN, IL. (MAPLE ST.)



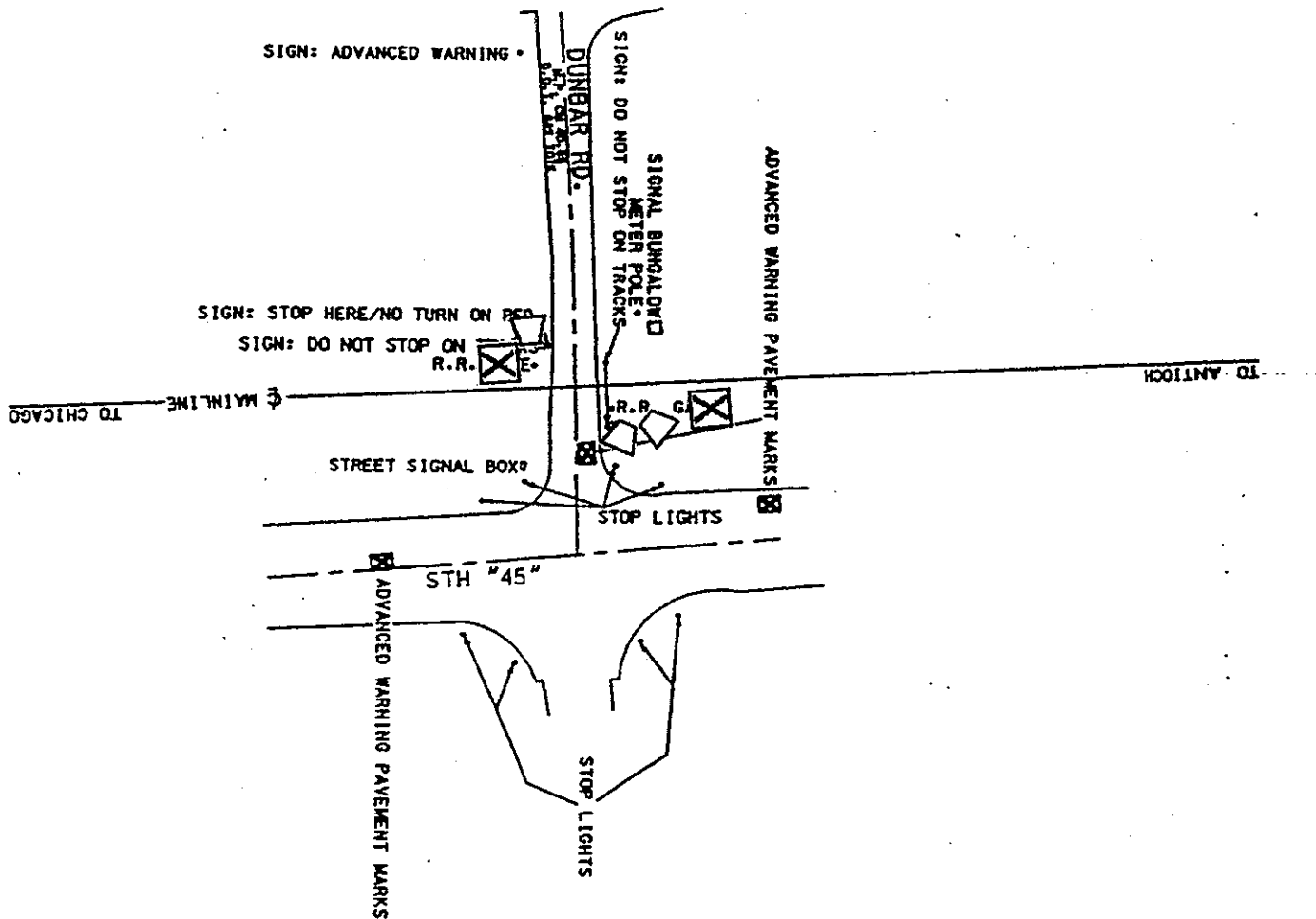
ENGINEERING DEPARTMENT  
1625 DEPOT STREET  
STEVENS POINT, WI 54481  
PHONE: (715) 345-2500  
FAX: (715) 345-2507


REVISED BY:	DATE:

<input type="checkbox"/> PRELIMINARY PLAN - SURVEY REQUIRED
<input type="checkbox"/> PRELIMINARY PLAN - SURVEY COMPLETED
<input checked="" type="checkbox"/> FINAL PLAN
WORK ORDER: 75-079-19
SCALE: 1" = 100'
DRAWN BY: JHK
DATE: 10/26/99

FILE LOCATION: S:\MUNDELEIN\3-DEVELOPMENT

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60



<b>PROJECT:</b> PROPOSED CROSSING FOR DIRECTIONAL HORNS  <b>LOCATION:</b> (Street, Line Segment, Mile Post) MUNDELEIN, IL. (DUNBAR RD.)	 <b>ENGINEERING DEPARTMENT</b> 1625 DEPOT STREET STEVENS POINT, WI 54481 PHONE: (715) 345-2508 FAX: (715) 345-2507	REVISED BY: _____ DATE: _____	<input type="checkbox"/> PRELIMINARY PLAN - SURVEY REQUIRED <input type="checkbox"/> PRELIMINARY PLAN - SURVEY COMPLETED <input checked="" type="checkbox"/> FINAL PLAN
		WORK ORDER: 75-078-19 SCALE: 1" = 100' DRAWN BY: JHK DATE: 10/25/93 FILE LOCATION: P:\MUNDELEIN\75-078-19\75-078-19.DWG	

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**VILLAGE OF MUNDELEIN, ILLINOIS**  
**AHS MAINTENANCE AGREEMENT**

This AHS Maintenance Agreement (hereinafter referred to as "Agreement") is made this 22nd day of September, 2003, effective on the 1st day of October, 2003, between the Village of Mundelein, Illinois (hereafter referred to as the Village) organized in the State of Illinois, having its principal office at 440 East Hawley Street, Mundelein, IL 60060, and Railroad Controls, L.P., (hereinafter referred to as "RCL"), a Texas Limited Partnership, having its principal address at 7471 Benbrook Parkway, Benbrook, Texas, 76126.

**WHEREAS**, the Village has maintenance responsibility for nine (9) AHS locations within the State of Illinois; and

**WHEREAS**, the Village desires to obtain maintenance services; and

**WHEREAS**, RCL desires to render maintenance services to the Village for nine (9) AHS locations in accordance with the terms and provisions set forth in this Agreement,

**NOW, THEREFORE**, for and in consideration of the mutual covenants and agreements set forth in this Agreement, the parties hereto do hereby mutually agree as follows:

1. **SCOPE OF SERVICES:** RCL will provide the following services to the Village during the term of this Agreement.
  - A. **Maintenance and Inspection Services.** RCL shall provide a signal maintainer for maintenance and inspection of the Village's nine (9) AHS locations, as described in **Exhibit A**, in accordance with manufacturer's recommendations.
  - B. **Emergency Services.** RCL's signal maintainer shall be available for emergency repair of the AHS within 48 hours of initial notification, during the term of this Agreement. Further, RCL shall provide a communications system consisting of a pager and cellular telephone for each maintainer to facilitate the emergency notification by the Village

- C. Damaged AHS Equipment.** RCL, at the Village's request, shall repair and/or replace AHS equipment damaged and/or destroyed by a third party. The Village shall bear the cost of such replacement regardless of availability of reimbursement of its costs from the party or parties responsible for the damage or destruction.
- D. Materials and Supplies.** RCL shall furnish all AHS materials and supplies consumed by RCL in providing the maintenance services described in this Agreement. These materials and supplies shall become the property of the Village after being stored or installed by RCL and payment is made to RCL. Cost of providing these materials and supplies shall be born by the Village. Applicable duties, taxes, and freight charges will be passed on to the Village at RCL's cost. Charges for materials and supplies shall be added to the Village's monthly invoice for maintenance and shall be identified by part name and, if applicable, by the location requiring the specific material or supply. In all cases, RCL will utilize parts and material from the Village's inventory prior to purchasing new parts and material.
- E. Consulting Services.** RCL, at the request of the Village, shall render advisory and consulting services to the Village with respect to the operation or improvement of the AHS equipment.
- 2. STORAGE SPACE.** The Village shall bear the cost of providing space for the storage of all materials used by RCL in performing the maintenance services described in this Agreement.
- 3. INSURANCE.** RCL shall, during the term of this Agreement, maintain the following insurance:

  - A.** Worker's Compensation Insurance;
  - B.** Automobile Insurance with a face amount of One Million and no/100 Dollars (\$1,000,000.00), and
  - C.** Comprehensive general liability in an amount not less than \$7,000,000 combined single limit with an aggregate of \$8,000,000.
  - D.** RCL shall furnish proof of such insurance to the Village upon execution of this Agreement.
- 4. FEES.** In consideration for the services to be rendered by RCL under the terms of the Agreement, except as provided herein, the Village shall make

payment to RCL as follows:

- A. A monthly billing shall be provided to the Village on or about the 1st day of each month and shall be payable by the Village to RCL on or before the last day of that month; and
  - B. Monthly charges shall be based on RCL's written quotation for AHS maintenance service as evidenced in **Exhibit B** along with any additional actual expenses incurred such as Railroad flagging.
- 5. **TERM.** This Agreement shall remain in full force and effect for a period of three (3) years from the effective date hereof.
- 6. **TERMINATION.** This Agreement may be terminated by either RCL or the Village with ten (10) days written notice in the event of either RCL's or the Village's bankruptcy, insolvency or assignment of the Agreement for the benefit of creditors or thirty (30) days written notice in the event of either RCL or the Village's default of the terms of this Agreement. Charges incurred for the terminated month shall be prorated according to actual time served. Within thirty (30) days following the termination of this agreement, RCL shall submit a final invoice to the Village detailing all outstanding charges due to RCL.
- 7. **CONFIDENTIALITY.** Neither party shall, during the term of this Agreement, disclose any confidential information; the disclosure of which would be detrimental to the other party.
- 8. **BINDING EFFECT.** The Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors, assigns and personal representatives.
- 9. **SEVERABILITY.** If any provision of this Agreement is determined by a competent legal authority to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.
- 10. **GOVERNING LAW.** The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.
- 11. **RAILROAD LICENSE.** RCL, as the Village's contractor, agrees to abide by the terms and requirements of the LICENSEE in the Railroad License Agreement attached as **Exhibit C**. The Village shall bear all railroad charges associated with the work covered by this agreement. RCL agrees to abide by and undertake all indemnification and insurance obligations imposed upon the Village in said Railroad License Agreement.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement this \_\_\_\_th day of \_\_\_\_\_, 2003.

**Witness:**

\_\_\_\_\_

**By:**

**Village of Mundelein, Illinois**

\_\_\_\_\_

**By: \_\_\_\_\_, Mayor**

**Village of Mundelein, IL**

**Witness:**

\_\_\_\_\_

**By:**

**Railroad Controls, L.P.**

\_\_\_\_\_

**By: Richard Campbell, President**



**VILLAGE OF MUNDELEIN, IL**  
**AHS LOCATIONS**  
**EXHIBIT "A"**

| <u>Location</u>  | <u>DOT No.</u> | <u>Milepost</u> |
|------------------|----------------|-----------------|
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| Allanson Road    | 689701U        | CM 38.65        |
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AHS MAINTENANCE AGREEMENT  
EXHIBIT "B"**

Railroad Controls Limited agrees to perform monthly inspections at nine (9) AHS locations in the Village of Mundelein, IL for the following fees:

Cost per month (10/01/03-10/01/04): \$ 650.00 plus flagging costs

Cost per month (10/01/04-10/01/05): \$ 675.00 plus flagging costs

Cost per month (10/01/05-10/01/06): \$ 700.00 plus flagging costs

1. Check for proper operation of AHS equipment once per month.
2. Perform preventive maintenance as per manufacturer's recommendations.
3. Respond to trouble calls within 48 hours of notification from the Village of Mundelein.

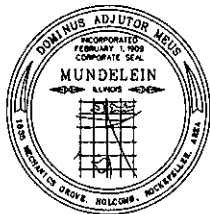
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# VILLAGE OF MUNDELEIN

*Marilyn Sindles, Mayor*

*Pamela Keeney, Clerk*

440 East Hawley Street  
Mundelein, IL 60060  
www.mundelein.org

Telephone: (847) 949-3200  
Fax: (847) 949-0143  
info@mundelein.org

September 25, 2003

Mr. Michael Stead  
Rail Safety Program Administrator  
Illinois Commerce Commission  
Transportation Division/Railroad  
527 E. Capitol Ave.  
P. O. Box 19280  
Springfield, IL 62794-9280

Dear Mr. Stead:

Enclosed herewith is a copy of the three-year maintenance agreement between the Village of Mundelein and Railroad Controls Ltd. for maintenance of the nine automated horn systems in and near the Village of Mundelein. This agreement was approved by the Mundelein Village Board on September 22, 2003. It is being sent to you at this time in compliance with the Fifth Supplemental Interim Order entered by the ICC (T01-0029) dated April 23, 2003, 2003. In that Order, the Commission approved a six month extension of time to, and including, October 25, 2003 for the Village to hire a long term maintainer, acceptable to the Commission, for the automated horn system.

As you know, Railroad Controls Ltd. installed the automated horn systems covered by the interim order and has been maintaining them since their installation.

Please call me if you have any questions.

Sincerely,

Michael A. Flynn  
Assistant Village Administrator

MAF/ch  
Enclosure

cc: Michael Barron  
Canadian National/Illinois Central